

Message Text

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ACTION DLOS-04

INFO OCT-01 IO-13 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05

FEAE-00 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 SAL-01 AF-08 ARA-06 EA-07 EUR-12

NEA-10 OIC-02 /151 W

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O 261528Z APR 76

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 7089

C O N F I D E N T I A L SECTION 1 OF 3 USUN 1744

FOR: KATZ (EB), VELIOTES (S/P), JAMES (D/LOS, AND VASTINE
(TREASURY)

FROM: AMB LEARSON

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS COMMITTEE I - VOTING IN ISRA COUNCIL

BACKGROUND/ANALYSIS

1. BY MIDDLE OF WEEK OF 048) 26, WE EXPECT THAT ALL
CRUCIAL ISSUES IN COMMITTEE I WILL HAVE BEEN NEGOTIATED IN
SECRET BRAZIL GROUP AND IN C-I EXCEPT QUOTA SYSTEM AND
ARTICLE ON COMPOSITION AND VOTING IN THE COUNCIL. CONSIDERATION
OF FORMER QUESTION WILL BE POSTPONED TO INTERSESSIONAL PERIOD.
WE BELIEVE THAT NEW US COUNCIL ARTICLE MUST BE CIRCULATED
DURING WEEK OF APRIL 26.

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PROPOSALS CONSIDERED

2. C-I TEAM OF US DELEGATION TO LOS CONFERENCE MET WITH REPRESENTATIVES FROM STATE, TREASURY AND CIEP ON SATURDAY, APRIL 24, TO CONSIDER VARIOUS PROPOSALS ON COMPOSITION AND VOTING IN THE COUNCIL. GROUP EXAMINED THE REVISED TREASURY ARTICLE OF APRIL 20, 1976, AND THE DELEGATION'S VARIOUS DRAFT ARTICLES OF APRIL 19, 1976, (ALL POUCHED WASHINGTON) AGAINST THE BACKGROUND OF THE US AMENDMENTS (DECEMBER, 1975) TO ARTICLE 27 OF THE SNT.

3. IN ADDITION, THE GROUP CONSIDERED A NEW ALTERNATIVE ON THE VOTING SYSTEM. TEXT OF NEW IDEA FOLLOWS: BEGIN TEXT:

6. ALL DECISIONS ON QUESTIONS OF OPEN BRACKETS SUBSTANCE AND DECISIONS THAT A QUESTION IS NOT ONE OF SUBSTANCE CLOSE BRACKETS SHALL BE MADE BY A ---- MAJORITY OF MEMBERS PRESENT AND VOTING PROVIDED THAT SUCH MAJORITY INCLUDES THE VOTES OF STATES ACCOUNTING FOR AT LEAST---- OF TOTAL PRODUCTION AND ---- OF TOTAL CONSUMPTION OF COBALT, COPPER, MANGANESE AND NICKEL BY MEMBERS OF THE OPEN BRACKETS AUTHORITY CLOSE BRACKETS OPEN BRACKETS COUNCIL

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CLOSE BRACKETS. PRODUCTION. AND CONSUMPTION FOR THIS PURPOSE SHALL BE CALCULATED ACCORDING TO THE AVERAGE VALUE IN CONSTANT TERMS OF PRODUCTION AND CONSUMPTION BY EACH MEMBER OF THE OPEN BRACKETS AUTHORITY CLOSE BRACKETS OPEN BRACKETS COUNCIL CLOSE BRACKETS OVER THE MOST RECENT FIVE-YEAR PERIOD FOR WHICH RELIABLE STATISTICS ARE AVAILABLE. DECISIONS ON QUESTIONS OF PROCEDURE SHALL BE BY A SIMPLE MAJORITY OF MEMBERS PRESENT AND VOTING. END TEST.

4. THERE IS BROAD AGREEMENT AMONG THOSE CONCERNED WITH THIS ISSUE ON TH MAJOR SUBSTANTIVE ISSUES AND OBJECTIVES. ALL AGREE THAT THE US AMENDMENTS OF DECEMBER, 1975 DO NOT FULLY PROTECT ALL US INTERESTS IN THE COUNCIL AND THAT MODIFICATIONS OR NEW APPROACHES ARE NEEDED. THERE IS GENERAL AGREEMENT THAT OUR OBJECTIVE MUST BE TO GAIN MAXIMUN PROTECTION IN THE DECISION-MAKING
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PROCESS IN THE AUTHORITY AND, IN PARTICULAR, IN THE COUNCIL.

5. IN CONSIDERING THE VARIOUS ALTERNATIVES ON COUNCIL VOTING, THE TREASURY REPRESENTATIVES HAVE TENDED TO FAVOR A PURE WEIGHTED VOTING SYSTEM AS REFLECTED IN TREASURY'S DRAFT COUNCIL ARTICLES. THERE WAS NO SUBSTANTIVE OBJECTION TO THE COUNCIL PROPOSAL (PARAGRAPH

3 ABOVE) PROVIDED THAT THERE WERE DIFFERENT VOTING MAJORITIES FOR DIFFERENT TYPES OF ISSUES OR THAT SOME OTHER METHOD BE ADOPTED TO INSURE AFFIRMATIVE ACTION BY THE COUNCIL. WITHOUT SUCH MODIFICATION, LAND-BASED PRODUCERS COULD EASILY BLOCK COUNCIL ACTION ON NEW CONTRACTS AND ADOPTION OF RULES AND REGULATIONS WHICH ARE NEEDED BEFORE CONTRACTS WOULD BE ISSUED.

6. IN THE REVIEW OF THE COMPOSITION AND VOTING ISSUES, A NUMBER OF SPECIFIC CONSIDERATIONS WERE BROUGHT OUT. IT IS CLEAR THAT ON SEVERAL TYPES OF DECISIONS, IT WILL BE NECESSARY FOR US TO BE ABLE TO BLOCK COUNCIL ACTION WHICH WOULD BE DETRIMENTAL TO US INTERESTS. WHILE THE FULL RANGE OF THE COUNCIL'S POWERS AND FUNCTION WILL NOT BE KNOWN UNTIL THE REVISED SNT IS ISSUED AT THE END OF THIS SESSION, IT IS CLEAR ON THE BASIS OF NEGOTIATIONS IN THE SECRET BRAZIL GROUP AND IN THE FULL COMMITTEE I DEBATE THAT COUNCIL WILL HAVE SOME POWERS TO MAKE DECISIONS WE MAY WISH TO STOP. SUCH POWERS WILL PROBABLY INCLUDE EXERCISE OF CONTROL OVER ACTIVITIES IN THE AREA, ADOPTION OF MEASURES TO PROTECT AGAINST ADVERSE ECONOMIC EFFECTS, AND MAKING RECOMMENDATIONS TO THE ASSEMBLY CONCERNING SUSPENSION OF PRIVILEGES AND RIGHTS OF MEMBERSHIP. ON THE OTHER HAND, ACTIONS BY THE COUNCIL IN WHICH WE WOULD WISH TO HAVE THE MAXIMUM ASSURANCES THAT IT WOULD TAKE POSITIVE ACTION WOULD INCLUDE RECOMMENDING TO THE ASSEMBLY CANDIDATES FOR APPOINTMENT TO THE TRIBUNAL AND THE GOVERNING BOARD OF THE ENTERPRISE AND ADOPTION OF RULES AND PROCEDURES. MOST IMPORTANTLY, IT WILL BE ESSENTIAL THAT THE COUNCIL TAKE POSITIVE ACTION ON APPROVING FORMAL WRITTEN PLANS OF WORK FOR THE CONDUCT OF ACTIVITIES IN THE AREA, I.E., THE APPROVAL OF CONTRACTS. FAILURE OF THE COUNCIL

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TO TAKE POSITIVE ACTION IN THESE INSTANCES WOULD RESULT IN CONTRACTS NOT BEING ISSUED AND POTENTIAL DENIAL TO THE US OF ACCESS TO SEABED RESOURCES.

7. THERE APPEARS TO BE AGREEMENT THAT A REASONABLE APPROACH TO THE COUNCIL VOTING ISSUE TO DEAL WITH PROBLEM OUTLINED ABOVE IS THE ATTEMPT TO NEGOTIATE DIFFERENT VOTING SYSTEMS FOR DIFFERENT ISSUES SO THAT WHERE THE US WISHES TO BLOCK COUNCIL ACTION, ITS VOTE IS ACCORDED A WEIGHT COMMENSURATE WITH ITS POSITION AS A MAJOR CONSUMER AND PRODUCER WHILE, WHEN WE WISH TO INSURE POSITIVE ACTION, WE DENY SUCH WEIGHT TO LAND-BASED PRODUCERS AND TO CERTAIN OTHER MAJOR INDUSTRIALIZED COUNTRIES WHO MAY BE EXPECTED TO TRY TO BLOCK COUNCIL APPROVAL OF THE ISSUANCE OF CONTRACTS TO US COMPANIES.

IT IS GENERALLY AGREED THAT WEIGHTED VOTING SHOULD BE
USED IN REGARD TO ARTICLE 9 QUESTIONS AND POSSIBLY ON
OTHER MATTERS WHICH WOULD HAVE TO BE
CONSIDERED AFTER THE ISSUANCE OF THE SNT.

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ACTION DLOS-04

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PRS-01 SP-02 SS-15 SAL-01 AF-08 ARA-06 EA-07 EUR-12

NEA-10 OIC-02 /151 W

----- 119656

O 261328Z APR 76

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC IMMEDIATE 7090

C O N F I D E N T I A L SECTION 2 OF 3 USUN 1744

FROM AMB LEARSON

FOR KATZ (EB), VELIOTES (S/P), JAMES (D/LOS), AND VASTINE
(TREASURY)

8. A NUMBER OF THOSE CONCERNED WITH THIS ISSUE CONSIDER
THAT FOR POLITICAL AND NEGOTIATING REASONS, IT WILL BE
NECESSARY TO INCORPORATE INTO THE COUNCIL ARTICLE THE
CONCEPT OF EQUITABLE GEOGRAPHIC DISTRIBUTION. THIS IS
SO FUNDAMENTAL TO THE APPROACH MOST COUNTRIES HAVE
TOWARD COMPOSITION OF THE COUNCIL THAT ITS TOTAL
ABSENCE WOULD ALMOST CERTAINLY BE SHARPLY ATTACKED AND
COULD SERIOUSLY JEOPARDIZE OUR CHANCE OF PRESERVING THE
PROTECTIONS WE NEED. SECONDLY, THE COUNCIL ARTICLE

SHOULD PROVIDE FOR A DEFINITE PERCENTAGE OF SEATS FOR
THE LAND-LOCKED AND GDS STATES. NOT ONLY WILL THIS TEND
TO GAIN US SUPPORT WITHIN THIS CRITICAL GROUP IN THE
NEGOTIATION BUT THESE COUNTRIES ARE MAINLY CONSUMERS
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AND ARE LIKELY TO BE HELPFUL TO US IN THE COUNCIL AS
THEY CAN BE EXPECTED TO SUPPORT MAXIMIZING SEABED PRODUC-
TION AND THUS BE A BALANCE TO LAND-BASED PRODUCERS.
FINALLY, THERE SHOULD BE A FORMULA FOR COMPOSITION OF
THE COUNCIL WHICH WILL GUARANTEE THAT THOSE MOST DIRECTLY
CONCERNED WITH SEABED MINING ARE ASSURED SEATS ON THE
COUNCIL.

9. ON THE BASIS OF THESE CONSIDERATIONS AND THE DISCUSSION AT
THE SATURDAY MEETING, THE DELEGATION HAS DRAFTED THE COUNCIL
ARTICLE AS FOLLOWS: BEGIN TEXT:

ARTICLE 27

THE COUNCIL

1. THE COUNCIL SHALL CONSIST OF 36 MEMBERS OF THE
AUTHORITY ELECTED BY THE ASSEMBLY WITH DUE REGARD TO THE
PRINCIPLE OF EQUITABLE GEOGRAPHICAL REPRESENTATION, PRO-
VIDED THAT THE MEMBERS OF THE COUNCIL, TAKEN AS A WHOLE,
SHALL ACCOUNT FOR AT LEAST 90 PERCENT OF THE TOTAL VALUE OF
THE CONSUMPTION OF THE MEMBERS OF THE AUTHORITY AND 90 PERCENT
OF THE TOTAL VALUE OF THE PRODUCTION OF THE MEMBERS OF
THE AUTHORITY OF THE CATEGORIES OF MINERALS DERIVED
FROM THE AREA CALCULATED IN ACCORDANCE WITH ANNEX -----.
AT LEAST ONE-FOURTH OF THE MEMBERS OF THE COUNCIL SHALL
BE LAND-LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES.

2. THE COUNCIL SHALL BE DIVIDED INTO THE FOLLOWING
CATEGORIES:

(A) THE SIX INDUSTRIALIZED STATES WHICH HAVE MADE THE
GREATEST CONTRIBUTIONS TO THE UNDERSTANDING AND EXPLORA-
TION OF THE AREA AND THE EXPLOITATION OF ITS RESOURCES AS
DEMONSTRATED BY SUBSTANTIAL INVESTMENTS OR ADVANCED
TECHNOLOGY IN RELATION TO THE RESOURCES OF THE AREA;
(B) THE SIX STATES WHICH ARE THE PRINCIPAL PRODUCERS OF
THE CATEGORIES OF MINERALS DERIVED FROM THE AREA;
(C) THE SIX STATES WHICH ARE THE PRINCIPAL CONSUMERS OF
THE CATEGORIES OF MINERALS DERIVED FROM THE AREA;
(D) LAND-LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES
WHICH DO NOT QUALIFY FOR MEMBERSHIP IN THE ABOVE CATEGORIES;
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(E) ALL OTHER MEMBERS OF THE COUNCIL WHICH DO NOT QUALIFY FOR MEMBERSHIP IN THE ABOVE CATEGORIES.

3. ELECTIONS SHALL TAKE PLACE AT REGULAR SESSIONS OF THE ASSEMBLY, AND EACH MEMBER OF THE COUNCIL SHALL BE ELECTED FOR A TERM OF 4 YEARS. IN THE FIRST ELECTION OF MEMBERS OF THE COUNCIL, HOWEVER, EIGHTEEN MEMBERS SHALL BE CHOSEN FOR A PERIOD OF TWO YEARS.

4. MEMBERS SHALL BE ELIBIBLE FOR RE-ELECTION; BUT DUE REGARD SHOULD, AS A RULE, BE PAID TO THE DESIRABILITY OF ROTATING STATES.

5. THE COUNCIL SHALL FUNCTION AT THE SEAT OF THE AUTHORITY, AND SHALL MEET IN CONTINUOUS SESSION.

6. EXCEPT AS PROVIDED IN PARAGRAPH 7 OF THIS ARTICLE, ALL DECISIONS ON QUESTIONS OF SUBSTANCE AND ON WHETHER A QUESTION IS ONE OF SUBSTANCE OR PROCEDURE SHALL BE MADE BY THREE-FOURTHS MAJORITY OF THE MEMBERS PRESENT AND VOTING, PROVIDED THAT SUCH MAJORITY INCLUDES A SIMPLE MAJORITY OF AT LEAST THREE OF THE CATEGORIES SPECIFIED IN PARAGRAPH 2. DECISIONS ON OTHER QUESTIONS SHALL BE MADE BY A SIMPLE MAJORITY OF MEMBERS PRESENT AND VOTING.

7. ALL DECISIONS RELATED TO THE EXERCISE OF THE COUNCIL'S POWERS UNDER PARAGRAPH (XI) OF ARTICLE 28 AND ARTICLES ----- SHALL BE MADE BY A THREE-FOURTHS MAJORITY OF THE MEMBERS OF THE COUNCIL, PROVIDED THAT SUCH MAJORITY INCLUDES THE VOTES OF STATES WHICH ACCOUNT FOR AT LEAST THREE-FOURTHS OF THE TOTAL VALUE OF THE CONSUMPTION OF THE MEMBERS OF THE COUNCIL AND THREE-FOURTHS OF THE TOTAL VALUE OF PRODUCTION OF THE MEMBERS OF THE COUNCIL OF THE CATEGORIES OF MINERALS DERIVED FROM THE AREA CALCULATED IN ACCORDANCE WITH ANNEX -----.

8. BEFORE ANY MATTER OF SUBSTANCE IS PUT TO THE VOTE, A DETERMINATION THAT EFFORTS HAVE BEEN MADE TO REACH GENERAL AGREEMENT SHALL BE MADE BY THE MAJORITIES SPECIFIED IN PARAGRAPH 6.

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9. THE COUNCIL SHALL ESTABLISH A PROCEDURE WHEREBY A MEMBER OF THE AUTHORITY NOT REPRESENTED ON THE COUNCIL MAY SEND A REPRESENTATIVE TO ATTEND A MEETING OF THE COUNCIL WHEN A REQUEST IS MADE BY SUCH MEMBER, OR A

MATTER PARTICULARLY AFFECTING IT IS UNDER CONSIDERATION.
SUCH A REPRESENTATIVE SHALL BE ENTITLED TO PARTICIPATE
IN THE DELIBERATIONS BUT NOT TO VOTE. END TEXT.

10. THE REVISED DRAFT COUNCIL ARTICLE (PARAGRAPH 9 ABOVE)
IS IN EFFECT A COMBINATION OF THE COLLEGIAL STRUCTURE
CONTAINED IN THE US AMENDMENTS OF DECEMBER, 1975, AND A
WEIGHTED VOTING SYSTEM OUTLINED ABOVE.

11. FROM A TACTICAL POINT OF VIEW, THE DELEGATION'S
DRAFT ARTICLE MASKS THE WEIGHTED VOTING ELEMENT TO SOME
DEGREE THEREBY MAKING IT SOMEWHAT MORE PALATABLE TO
DEVELOPING COUNTRIES. IF THE US PROPOSAL ON
COUNCIL VOTING CAME UNDER VERY SEVERE ATTACK FROM A LARGE
NUMBER OF DELEGATIONS, THE US WOULD BE IN A POSITION TO
DROP THE COLLEGIAL SYSTEM AS A MAJOR "CONCESSION."
FINALLY, IT WAS CONSIDERED BY MANY AS UNDESIRABLE TO
DROP THE PROPOSALS CONTAINED IN THE US AMENDMENTS AND
TO REPLACE THEM WITH A RADICALLY NEW APPROACH TO THIS
ISSUE. THE US DELEGATION HAD MADE CLEAR ON A NUMBER OF
OCCASIONS THAT THE US IS NOT SATISFIED WITH ITS OWN
PROPOSALS ON THE COUNCIL ON THE GROUNDS THAT THESE
PROPOSALS DO NOT FULLY PROTECT US AND, THEREFORE, OTHER
DELEGATIONS WILL NOT BE SURPRISED IF THE US SHOULD PRO-
POSE IMPORTANT ADDITIONS TO ITS OWN ARTICLE. NEVER-
THELESS, SHOULD THE US MOVE TO A WHOLLY DIFFERENT
APPROACH OUR ALLIES WOULD PROBABLY STRONGLY OBJECT AND
OTHER NEGOTIATORS IN GENERAL WOULD CONCLUDE THAT THE US
POLICY ON THIS ISSUE IS IN FLUX AND POSSIBLY THAT THIS
REFLECTS UNCERTAINTY WITHIN THE UNITED STATES GOVERNMENT.
LATTER PERCEPTION COULD LEAD TO UNDERESTIMATING STRONG
US POSITION ON IMPORTANCE ATTACHED TO ACHIEVING THIS NEW
APPROACH TO COUNCIL VOTING.

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ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

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O 261328Z APR 76

FM USMISSION USUN NY

TO SECSTATE WASHDC IMMEDIATE 7091

C O N F I D E N T I A L SECTION 3 OF 3 USUN 1744

FROM: AMB LEARSON

FOR: KATZ (EB), VELIOTES (S/P), JAMES (D/LOS), AND
VASTINE (TREASURY)

12. THE OUTLINES OF THIS APPROACH WERE DISCUSSED AT SATURDAY MEETING. THERE WAS NO SUBSTANTIVE OBJECTION TO THIS APPROACH ALTHOUGH TWO PARTICIPANTS AT THE MEETING EXPRESSED SOME RESERVATIONS ON THE BASIS OF TACTICAL CONSIDERATIONS.

NEGOTIATING SITUATION

13. AS DEPARTMENT IS AWARE FROM EXTENSIVE CABLE REPORTING, SECRET BRAZIL GROUP HAS COMPLETED NEGOTIATIONS ON VIRTUALLY ALL ARTICLES OF THE REGIME AND MACHINERY (EXCEPT ARTICLES 26 AND 27) AND THE ENTIRE ANNEX. ARTICLES 9, 22, AND ANNEX WERE ISSUED BY CHAIR-CONFIDENTIAL

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MAN OF COMMITTEE I ON APRIL 23. ARTICLES 1 THROUGH 24 WILL PROBABLY BE ISSUED BY CHAIRMAN ON APRIL 27. REMAINING ISSUES TO BE NEGOTIATED IN BRAZIL GROUP ARE STATUTE OF TRIBUNAL, PROVISIONAL APPLICATION, FINANCIAL ARRANGEMENTS (REVENUE SHARING), STATUTE OF THE ENTERPRISE, AND ARTICLE 26 (POWERS AND FUNCTIONS OF THE ASSEMBLY).

14. U.S. DELEGATION WILL ATTEMPT TO NEGOTIATE ALL OF THESE ISSUES IN BRAZIL GROUP AND IN PARALLEL DEBATE IN FULL COMMITTEE I. DURING COMING FOUR DAYS. CHAIRMAN OF COMMITTEE I PLANS TO COMPLETE DEBATE BY MIDDLE OF THIS WEEK AND TO ISSUE ALL REMAINING ARTICLES BY THAT TIME. FOLLOWING THIS, GROUP OF 77 WILL TAKE THREE DAYS, (APRIL 30, MAY 1 AND MAY 3) TO REVIEW NEW TEXTS. TOWARD END OF LAST WEEK OF CONFERENCE WE EXPECT THAT REVISED SNT WILL

BE ISSUED.

15. THE U.S. DELEGATION CONSIDERS IT VERY IMPORTANT THAT WE DISCUSS SPECIFIC NEGOTIATING PROPOSALS ON COMPOSITION AND VOTING IN THE COUNCIL IN SECRET BRAZIL GROUP AND GROUP OF FIVE FOLLOWING WHICH WE WOULD PLAN ON CIRCULATING PROPOSED TEXTS ON A SELECTED BASIS AMONG OTHER DELEGATIONS SO THAT THE IDEAS CONTAINED IN NEW APPROACH WILL BECOME FAMILIAR. WE DO NOT RPT NOT PLAN TO FORMALLY PROPOSE NEW COUNCIL ARTICLE OR TO DEBATE ISSUE PUBLICLY IN C-I. HOWEVER, IT IS ESSENTIAL THAT THESE IDEAS BECOME CURRENT NOW AND DURING INTERSESSIONAL PERIOD SO THAT U.S. IS NOT CHARGED WITH BAD FAITH AT THE NEXT SESSION OF THE CONFERENCE BY INTRODUCING AT VIRTUALLY LAST MINUTE AN ENTIRELY NEW AND NOVEL PROPOSAL ON SUCH A MAJOR ISSUE.

16. THE SECRET BRAZIL GROUP WILL NOT MEET WHILE GROUP OF 77 IS CONSIDERING NEW ENGO TEXTS AND, IN FACT, MAY CEASE TO FUNCTION EFFECTIVELY AS OF THURSDAY, APRIL 29. THEREFORE, WE WILL HAVE TO GIVE THIS ARTICLE TO THE BRAZIL GROUP NOT LATER THAN WEDNESDAY MORNING AT ITS 0930 MEETING. ALSO SINCE WE ARE COMMITTEE TO THE GROUP OF 5 TO SHOW IT TO THEM FIRST WE WILL HAVE TO GIVE IT TO THEM AT THEIR MEETING 1800 TUESDAY.

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Message Attributes

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